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REMARKS

Reconsideration and allowance are requested. Claims 1, 3 - 7, 9, 10, 14 and 16 - 23

are rejected. Claims 2, 8 and 15 are withdrawn from consideration. Claim 21 is cancelled

and claims 1, 14 and 16 are amended. The cancellation of claim 21 obviates the Examiner's

objection to this claim. Claim 16 is also amended to be dependent from claim 14 as

mentioned by the Examiner and not for patentability. Claim 22 is amended only to correct the

claim dependence introduced by the cancellation of claim 21.

Rejection of Claims 1, 2, 3 - 7, 9 - 10, 14 and 16 - 23 under Section 102(b)

The Examiner rejects claims 1, 2, 3 - 7, 9 - 10, 14 and 16 - 23 under Section 102(b) as

being unpatentable over U.S. Pat. No. 6,029,045 to Picco et al. ("Picco et al."). As

mentioned above, claim 21 is cancelled rendering the rejection of this claim moot.

We first address claim 1. Claim 1 recites a method for receiving performance

information over a network for generating a pseudo-live performance. A minor amendment

to this claim clarifies the step of detecting a need for the performance information. The step

of detecting a need for performance information is performed by determining a time of a

previously information reception event, detecting a status of a storage device, and accessing a

profile. Applicant submits that contrary to the Examiner's assertion, this step is not taught in

Picco et al.

The Examiner asserted that Picco et al. teach this step in various locations outlined on

page 3 of the Office Action. Applicant notes, however, that none of the locations identified

by the Examiner teaches the limitation of determining a time of a previously information

reception event. Thus, although column 7 as identified by the Examiner references updating

content as instructed by the scheduler 148. Applicant notes, however, that the scheduler 148

as taught by Picco et al. relates to more of a statistical scheduling system that includes

viewing information and usage of a household and is not taught as performing the step of

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determining a time of a previously information reception event as is recited in claim 1. Picco

et al. focus mainly on the process of inserting local content into programming content and

scheduling that insertion. They simply do not take into account the need to detect a need for

performance information by determining a time of a previous information reception event.

For this reason, since Picco et al. is silent regarding this limitation of claim 1, Applicant

respectfully submits that claim 1 is patentable and in condition for allowance.

Claims 3 - 7 and 9 - 10 each depend from claim 1 and recite further limitations

therefrom. Therefore, Applicant submits that these claims are patentable as well.

Claim 14 recites a pseudo-live performance generator comprising a controller that

detects a need for performance information by determining a time of a previous information

reception event. This feature, as discussed above, is not taught by Picco et al. Therefore,

Applicant submits that claim 14 is patentable and in condition for allowance.

Claims 16 - 20 and 22 - 23 each depend from claim 14 and recite further limitations

therefrom. Accordingly, Applicant submits that these claims are patentable as well.

CONCLUSION

Having addressed the rejection of claims, applicant respectfully submits that the

subject application is in condition for allowance and a Notice to that effect is earnestly

solicited.

Respectfully submitted,

Date: 1/19/05   By: _____

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